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8 UNITED STATES DISTRICT COURT

9  
10 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

11 ALFRED MONTEZ,

12 Plaintiff,

13 v.  
14 Experian Information Solutions, Inc.;  
15 Equifax, Inc.; TransUnion, LLC; Credit  
16 One Bank, National Association; First  
17 PREMIER Bank; Flurish, Inc.; Milestonz  
18 Jewelers, Inc. and DOES 1 through 100  
19 inclusive,

20 Defendants.

21 CASE NO.

22 COMPLAINT FOR DAMAGES:

23 1. Violation of Fair Credit Reporting Act;  
2. Violation of California Consumer Credit  
24 Reporting Agencies Act

25 COMES NOW Plaintiff ALFRED MONTEZ, an individual, based on information and  
26 belief, to allege as follows:

27 **INTRODUCTION**

28 1. This case arises under the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b) and the  
California Consumer Credit Reporting Agencies Act, California Civil Code §1785.25(a).  
Plaintiff seeks redress for the unlawful and deceptive practices committed by the Defendants in  
connection with their inaccurate reporting of Plaintiff's debt included in Plaintiff's Chapter 13  
bankruptcy.

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## **JURISDICTION & VENUE**

2. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and every paragraph above, fully set forth herein.

3. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337, and 1367, and 15 U.S.C. § 1681

4. This venue is proper pursuant to 28 U.S.C. §1391(b).

## **GENERAL ALLEGATIONS**

5. Plaintiff filed for Chapter 13 bankruptcy protection on June 30, 2015 in order to reorganize and repair Plaintiff's credit. Plaintiff's Chapter 13 plan of financial reorganization was confirmed on August 27, 2015, implicating the conditions found under 11 U.S.C. §1327.

6. On October 3, 2015 Plaintiff ordered a three bureau report from Experian Information Solutions, Inc. to ensure proper reporting by Plaintiff's creditors.

7. Plaintiff noticed several tradelines all reporting misleading and inaccurate account information.

8. Defendant Credit One Bank, National Association was reporting Plaintiff's account, beginning in 44479621, as open, charged off, in collections, with late payments, with a balance in the amount of \$484.00, with a past due balance in the amount of \$100.00, and with monthly payment owed in the amount of \$25.00, despite a Bankruptcy Court Order stating that \$0.00 is owed and that the Chapter 13 Bankruptcy Trustee's accounting indicates that \$0.00 is owed.

9. Defendant Credit One Bank, National Association was reporting Plaintiff's account, beginning in 44479622, with late payments, with a balance in the amount of \$484.00, with a past due balance in the amount of \$100.00, and with monthly payment owed in the amount of \$25.00, despite a Bankruptcy Court Order stating that \$0.00 is owed and that the Chapter 13 Bankruptcy Trustee's accounting indicates that \$0.00 is owed.

10. Defendant First PREMIER Bank was reporting Plaintiff's account, beginning in 51780060, as open, and with a balance in the amount of \$505.00, despite a Bankruptcy Court Order stating that \$0.00 is owed and that the Chapter 13 Bankruptcy Trustee's accounting indicates that \$0.00 is owed.

1 11. Defendant First PREMIER Bank was reporting Plaintiff's account, beginning in  
2 51780065, as open, with late payments, and with a balance in the amount of \$440.00, despite a  
3 Bankruptcy Court Order stating that \$0.00 is owed and that the Chapter 13 Bankruptcy  
4 Trustee's accounting indicates that \$0.00 is owed.

5 12. Defendant Flurish, Inc. was reporting Plaintiff's account, beginning in 5463, as open,  
6 past due, with late payments, with a balance in the amount of \$1,086.00, with a past due  
7 balance in the amount of \$807.00, and with monthly payment owed in the amount of \$90.00,  
8 despite a Bankruptcy Court Order stating that \$0.00 is owed and that the Chapter 13  
9 Bankruptcy Trustee's accounting indicates that \$0.00 is owed.

10 13. Defendant Flurish, Inc. was reporting Plaintiff's account, beginning in 5483, as open,  
11 past due, with late payments, with a balance in the amount of \$1,088.00, and with monthly  
12 payment owed in the amount of \$90.00, despite a Bankruptcy Court Order stating that \$0.00 is  
13 owed and that the Chapter 13 Bankruptcy Trustee's accounting indicates that \$0.00 is owed.

14 14. Defendant Milestonz Jewelers, Inc. was reporting Plaintiff's account, beginning in  
15 1012, as open, past due, with late payments, with a balance in the amount of \$3,446.00, with a  
16 past due balance in the amount of \$480.00, and with monthly payment owed in the amount of  
17 \$160.00, despite a Bankruptcy Court Order stating that \$0.00 is owed and that the Chapter 13  
18 Bankruptcy Trustee's accounting indicates that \$0.00 is owed.

19 15. In response to the perceived inaccuracies on Plaintiff's credit report, Plaintiff disputed  
20 the inaccurate tradelines via certified mail with Experian Information Solutions, Inc.; Equifax,  
21 Inc.; and TransUnion, LLC.

22 16. Plaintiff is informed and believes that each credit reporting agency sent each  
23 Defendant notification that plaintiff was disputing the accuracy of what it was reporting to  
24 them.

25 17. Defendants Credit One Bank, National Association; First PREMIER  
26 Bank; Flurish, Inc. and Milestonz Jewelers, Inc. failed to conduct a reasonable investigation  
27 and continued to report falsely to Experian Information Solutions, Inc.; Equifax, Inc.; and  
28

1 TransUnion, LLC misleading and inaccurate account information as identified above in  
2 Paragraphs 8 – 14.

3 18. Alternatively, Equifax, Inc. failed to perform its own reasonable investigation and  
4 failed to correct the inaccuracies and failed to note that Plaintiff disputed the information.  
5 After the statutory time period passed for Equifax, Inc. to update the report Plaintiff pulled a  
6 second credit report and noticed that no updates had been made to the tradeline in dispute.

7 19. Alternatively, Experian Information Solutions, Inc. failed to perform its own  
8 reasonable investigation and failed to correct the inaccuracies and failed to note that Plaintiff  
9 disputed the information. After the statutory time period passed for Experian Information  
10 Solutions, Inc. to update the report Plaintiff pulled a second credit report and noticed that no  
11 updates had been made to the tradeline in dispute.

12 20. Alternatively, TransUnion, LLC failed to perform its own reasonable investigation and  
13 failed to correct the inaccuracies and failed to note that Plaintiff disputed the information as  
14 Plaintiff received a reinvestigation report from TransUnion, LLC that failed to properly address  
15 the inaccuracies.

16 21. On April 19, 2016 Plaintiff ordered a second credit report from all three credit  
17 bureaus: Experian Information Solutions, Inc.; Equifax, Inc. and TransUnion, LLC to ensure  
18 the accounts that were in dispute were being properly reported.

19 22. Plaintiff's accounts were disputed but the Defendants; Experian Information Solutions,  
20 Inc.; Equifax, Inc.; and TransUnion, LLC failed to correct the misleading and inaccurate  
21 statements on the account within the statutory time frame or, alternatively, at all.

22 23. The credit bureaus have an obligation to delete the tradeline when a response is not  
23 received by the furnisher within the statutory time frame.

24 24. The actions of the Defendants as alleged herein are acts in violation of the Fair Credit  
25 Reporting Act, 15 U.S.C. § 1681s-2(b).

26 25. The actions of the Defendants as alleged herein are acts in violation of the consumer  
27 credit reporting agencies act California Civil Code § 1785.25(a).

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**FIRST CAUSE OF ACTION**  
Violation of Fair Credit Reporting Act  
15 U.S.C. § 1681s-2(b))  
(Against Defendants and Does 1-100)

## **Experian Information Solutions, Inc.; Equifax, Inc. and TransUnion, LLC- Failure to Reinvestigate Disputed Information.**

26. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.

27. After plaintiff disputed the accounts mentioned above, defendants Experian Information Solutions, Inc.; Equifax, Inc. and TransUnion, LLC were required to conduct a reasonable investigation and to delete any information that was not accurate. In doing so, defendants were required to send all relevant information to the furnishers which they did not do based on the reinvestigation report Plaintiff received.

28. In its reinvestigation report TransUnion, LLC failed to update the misleading and inaccurate account information.

29. Defendants Experian Information Solutions, Inc. and Equifax, Inc. were also required to send all relevant information to the furnishers which they did not do. Defendants failed to correct the misleading and or inaccurate statements on the account within the statutory time frame or at all.

**Credit One Bank, National Association; First PREMIER Bank; Flurish, Inc. and Milestonz Jewelers, Inc.– Reporting Inaccurate Information to Defendants Experian Information Solutions, Inc.; Equifax, Inc. and TransUnion, LLC and Failure to Reinvestigate.**

30. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.

31. 15 USC 1681s-2(b) prohibits furnishers from providing any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate or misleading and requires a furnisher to update and or correct inaccurate information after being notified by a consumer reporting agency of a dispute by a consumer.

32. Defendants Credit One Bank, National Association; First PREMIER

1 Bank; Flurish, Inc. and Milestonz Jewelers, Inc. violated section 1681s-2(b) by failing to  
2 conduct a reasonable investigation and re-reporting misleading and inaccurate account  
3 information regarding Plaintiff's accounts. Defendants Experian Information Solutions, Inc.;  
4 Equifax, Inc. and TransUnion, LLC provided notice to the defendants that Plaintiff was  
5 disputing the inaccurate and misleading information but each of the Defendants failed to  
6 conduct a reasonable investigation of the information as required by the FCRA.

7 33. Defendant Credit One Bank, National Association (Account # 44479621xxxx) supplied  
8 inaccurate and misleading information to the Credit Reporting Agencies by reporting, after  
9 Plaintiff's chapter 13 filing and confirmation, that the account was open, charge off, in  
10 collections, with late payments, with a balance in the amount of \$484.00, with a past due  
11 balance in the amount of \$100.00, and with monthly payment owed in the amount of \$25.00,  
12 despite the Court Ordered treatment of its claim under the terms of Plaintiff's Chapter 13 plan  
of reorganization.

13 34. Defendant Credit One Bank, National Association (Account # 44479622xxxx) supplied  
14 inaccurate and misleading information to the Credit Reporting Agencies by reporting, after  
15 Plaintiff's chapter 13 filing and confirmation, that the account was with late payments, with a  
16 balance in the amount of \$484.00, with a past due balance in the amount of \$100.00, and with  
17 monthly payment owed in the amount of \$25.00, despite the Court Ordered treatment of its  
18 claim under the terms of Plaintiff's Chapter 13 plan of reorganization.

19 35. Defendant First PREMIER Bank (Account # 51780060xxxx) supplied inaccurate and  
20 misleading information to the Credit Reporting Agencies by reporting, after Plaintiff's chapter  
21 13 filing and confirmation, that the account was open, and with a balance in the amount of  
22 \$505.00, despite the Court Ordered treatment of its claim under the terms of Plaintiff's Chapter  
23 13 plan of reorganization.

24 36. Defendant First PREMIER Bank (Account # 51780065xxxx) supplied inaccurate and  
25 misleading information to the Credit Reporting Agencies by reporting, after Plaintiff's chapter  
26 13 filing and confirmation, that the account was open, with late payments, and with a balance  
27 in the amount of \$440.00, despite the Court Ordered treatment of its claim under the terms of  
28 Plaintiff's Chapter 13 plan of reorganization.

37. Defendant Flurish, Inc. (Account # 5463xxxx) supplied inaccurate and misleading  
information to the Credit Reporting Agencies by reporting, after Plaintiff's chapter 13 filing

1 and confirmation, that the account was open, past due, with late payments, with a balance in  
2 the amount of \$1,086.00, with a past due balance in the amount of \$807.00, and with monthly  
3 payment owed in the amount of \$90.00, despite the Court Ordered treatment of its claim under  
4 the terms of Plaintiff's Chapter 13 plan of reorganization.

5 38. Defendant Flurish, Inc. (Account # 5483xxxx) supplied inaccurate and misleading  
6 information to the Credit Reporting Agencies by reporting, after Plaintiff's chapter 13 filing  
7 and confirmation, that the account was open, past due, with late payments, with a balance in  
8 the amount of \$1,088.00, and with monthly payment owed in the amount of \$90.00, despite the  
9 Court Ordered treatment of its claim under the terms of Plaintiff's Chapter 13 plan of  
reorganization.

10 39. Defendant Milestonz Jewelers, Inc. (Account # 1012xxxx) supplied inaccurate and  
11 misleading information to the Credit Reporting Agencies by reporting, after Plaintiff's chapter  
12 13 filing and confirmation, that the account was open, past due, with late payments, with a  
balance in the amount of \$3,446.00, with a past due balance in the amount of \$480.00, and  
14 with monthly payment owed in the amount of \$160.00, despite the Court Ordered treatment of  
15 its claim under the terms of Plaintiff's Chapter 13 plan of reorganization.

16 **SECOND CAUSE OF ACTION**

17 (Violation of California Consumer Credit Reporting Agencies Act  
California Civil Code § 1785.25(a))  
(Against Defendants and Does 1-100)

18 **Credit One Bank, National Association; First PREMIER Bank; Flurish, Inc. and  
19 Milestonz Jewelers, Inc.– Reporting Inaccurate Information to Defendants Experian  
Information Solutions, Inc.; Equifax, Inc. and TransUnion, LLC.**

20 40. Plaintiff realleges and incorporates herein the allegation in each and every paragraph  
21 above as though fully set forth herein.

22 41. Defendants CashCall, Inc.; Credit One Bank, National Association; First PREMIER  
23 Bank; Flurish, Inc. and Milestonz Jewelers, Inc. intentionally and knowingly reported  
24 misleading and inaccurate account information to Experian Information Solutions, Inc.;  
25 Equifax, Inc.; and TransUnion, LLC.

26 42. Plaintiff alleges that Defendants re-reported misleading and inaccurate account  
27 information, as stated in paragraphs 8-14 and 33-39 to Experian Information Solutions, Inc.;  
28 Equifax, Inc.; and TransUnion, LLC in violation of California Civil Code § 1785.25(a).

1       43. Plaintiff also alleges that Defendants had reason to know that the information reported  
2 on Plaintiff's accounts were misleading and inaccurate.

3       44. Plaintiff alleges that the bankruptcy notices, disputes letters from all three credit  
4 reporting agencies, the consumer data industry resource guide, and results of its investigation  
5 should have provided notice to Defendants of its misleading and inaccurate reporting.

6       45. Defendants failed to notify Experian Information Solutions, Inc.; Equifax, Inc. and  
7 TransUnion, LLC that the information Defendants re-reported was inaccurate before the end of  
8 30 business days, in violation of California Civil Code § 1785.25(a).

9       46. Defendants' communications of false information, and repeated failures to investigate,  
10 and correct their inaccurate information and erroneous reporting were done knowingly,  
11 intentionally, and in reckless disregard for their duties and Plaintiff's rights.

12       47. As a direct and proximate result of Defendants' willful and untrue communications,  
13 Plaintiff has suffered actual damages including but not limited to inability to properly  
14 reorganize under Chapter 13, reviewing credit reports from all three consumer reporting  
15 agencies, time reviewing reports with counsel, sending demand letters, diminished credit score,  
16 and such further expenses in an amount to be determined at trial.

17       48. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

**PRAYER FOR RELIEF**

18       WHEREFORE, Plaintiff prays for judgment as follows:

- 19       a. For preliminary and permanent injunctive relief to stop Defendants from  
20           engaging in the conduct described above;
- 21       b. Award statutory and actual damages pursuant to 15 U.S.C. § 1681n and  
22           California Civil Code § 1785.31;
- 23       c. Award punitive damages in order to deter further unlawful conduct pursuant to  
24           15 U.S.C. § 1681n; and California Civil Code § 1785.31
- 25       d. Award attorney's fees and costs of suit incurred herein pursuant to 15 U.S.C. §  
26           1681n & o; California Civil Code § 1785.31;
- 27       e. For determination by the Court that Creditor's policies and practices are  
28           unlawful and in willful violation of 15 U.S.C. § 1681n, et seq.; and

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1 f. For determination by the Court that Creditor's policies and practices are  
2 unlawful and in negligent violation of 15 U.S.C. § 1681o.

3  
4 Dated: June 15, 2016

5 By:

6 **SAGARIA LAW, P.C.**  
7 */s/ Elliot Gale, Esq.*  
8 Scott Sagaria, Esq.  
9 Elliot Gale, Esq.  
10 Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

11 Plaintiff hereby demands trial of this matter by jury.  
12

13  
14 Dated: June 15, 2016

15  
16 **SAGARIA LAW, P.C.**  
17 */s/ Elliot Gale, Esq.*  
18 Scott Sagaria, Esq.  
19 Elliot Gale, Esq.  
20 Attorneys for Plaintiff